

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NATHAN MELTON,

Defendant.

No. CR13-14-MWB

**MEMORANDUM OPINION AND
ORDER REGARDING
PROSECUTION'S MOTION TO
TRANSFER TRIAL TO CEDAR
RAPIDS**

I. INTRODUCTION AND BACKGROUND

In an Indictment returned on March 19, 2013, defendant Nathan Melton is charged with forcibly resisting, impeding, and interfering with a Deputy United States Marshal resulting in bodily injury to the Deputy United States Marshal, in violation of 18 U.S.C. § 111(a)(1) and (b). The charge in the Indictment arises from an incident in which defendant Melton allegedly resisted a Deputy United States Marshal's attempt to detain him following a revocation hearing before Chief United States District Judge Linda R. Reade in the Federal Courthouse in Cedar Rapids, Iowa, on November 19, 2012.

On March 21, 2013, Chief Judge Reade recused herself from this case, pursuant to 28 U.S.C. § 455. On the same date, this case was reassigned to me. This case is scheduled for trial on July 1, 2013, at the United States Courthouse in Sioux City, Iowa. On April 23, 2013, the prosecution filed its Motion to Transfer Trial to Cedar Rapids, pursuant to Federal Rule of Criminal Procedure 18. The prosecution

represents in its motion that defendant Melton does not resist the prosecution's motion. In support of its motion, the prosecution asserts that all of the witnesses it intends to call at trial reside substantially closer to Cedar Rapids than to Sioux City. The prosecution further contends that the victim resides in a community adjacent to Cedar Rapids.

II. LEGAL ANALYSIS

Federal Rule of Criminal procedure 18 provides, in relevant part, "The court must set the place of trial within the district with due regard for the convenience of the defendant and the witnesses, and the prompt administration of justice." FED. R. CIV. P. 18. "Rule 18 mandates that district courts consider the factors of convenience to the defendant, convenience to the witnesses, and the prompt administration of justice when considering where trial should be held." *United States v. Stanko*, 528 F.3d 581, 584-85 (8th Cir. 2008).

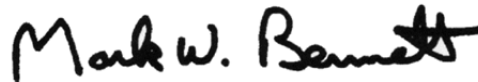
As to the convenience of the witnesses, it is uncontested that all of the witnesses, including the victim Deputy Marshal, reside much closer to Cedar Rapids than Sioux City. This factor weighs heavily in favor of transfer. In addition to convenience to the witnesses, I must also consider the convenience to defendant Melton. *See Stanko*, 528 F.3d at 586. "A component of that factor is the ability of family, friends, and other supporters to attend trial." *Stanko*, 528 F.3d at 586. Defendant Melton's family and friends who were present in the courtroom at his revocation hearing, and may wish to attend the trial, reside in Cedar Rapids or much closer to Cedar Rapids than Sioux City. Defense counsel maintains his law office in Cedar Rapids. If the trial is moved to Cedar Rapids, the Marshals Service can move defendant Melton to a jail closer to defense counsel, thereby facilitating defense counsel's communications with defendant Melton. Thus, this factor also weighs in favor of trial in Cedar Rapids. Finally, with

regard to the prompt administration of justice, defense counsel's office is located in Cedar Rapids which should assist in defense counsel's efficiency at trial.

At bottom, taking all the factors into account, the prosecution has shown that transferring trial of this case from Sioux City to Cedar Rapids would be in the interest of justice based upon the convenience of the defendant, possible defense witnesses, and the prosecution's witnesses. Therefore, the prosecution's Motion To Transfer Trial To Cedar Rapids is granted. Due to the change in the location of the trial, the Clerk of Court is directed to reassign this case to Chief United States Magistrate Judge Jon S. Scoles.

IT IS SO ORDERED.

DATED this 29th day of April, 2013.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is written in a cursive, slightly stylized font. The "M" is large and loops around the "a". The "B" is also large and loops around the "e". The signature ends with a long horizontal stroke.

MARK W. BENNETT
U.S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA